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October 29, 2003

Mr. Thomas M. Dorman  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602

*WTCB*  
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OCT 29 2003  
P. M.

RE: Petition of Southeast Telephone, Inc., Case No. 2003-00115

Dear Mr. Dorman:

Enclosed please find a Motion to Require Responses to Discovery and Request for Extension of Time filed on behalf of Kentucky ALLTEL, Inc. ("ALLTEL") in the above-referenced case. An original and eleven (11) copies are enclosed. Please file-stamp the extra copy and return it to me in the self-addressed, pre-stamped envelope I have enclosed for your convenience.

Thank you for your cooperation in this matter. Please do not hesitate to contact me with any questions you may have.

Sincerely,

WYATT, TARRANT & COMBS, LLP

*Noelle M. Holladay*

Noelle M. Holladay

Enclosure

cc: Amy Dougherty (w/enclosure)  
Jonathon Amlung (w/enclosure)  
Steve Rowell (w/enclosure)

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**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

*Drop Box*  
**RECEIVED**  
OCT 29 2003  
*[Signature]*

**In the Matter of:**

<b>Petition of SouthEast Telephone, Inc., for</b>	)	
<b>Arbitration of Certain Terms and Conditions</b>	)	
<b>Of the Proposed Agreement with Kentucky</b>	)	<b>Case No.</b>
<b>ALLTEL, Inc., Pursuant to the Communications</b>	)	<b>2003-00115</b>
<b>Act of 1934, as amended by the Telecommunications</b>	)	
<b>Act of 1996</b>	)	

**MOTION TO REQUIRE RESPONSES TO DISCOVERY PROPOUNDED**  
**TO SOUTHEAST TELEPHONE, INC. AND**  
**REQUEST FOR EXTENSION OF TIME TO FILE TESTIMONY**

NOW COMES Kentucky ALLTEL, Inc. ("Kentucky ALLTEL") and petitions the Kentucky Public Service Commission ("Commission") pursuant to 807 K.A.R. 5:001 for the following relief and, in support of this Motion, states as follows:

**I. MOTION TO REQUIRE RESPONSES TO DISCOVERY PROPOUNDED TO SOUTHEAST TELEPHONE, INC.**

1. On October 22, 2003, Kentucky ALLTEL served its First Set of Interrogatories and Request for Production of Documents to SouthEast Telephone, Inc. ("SouthEast Telephone") in this proceeding.
2. On October 27, 2003, the Commission entered its Order Setting Procedural Schedule, which required testimony to be submitted on or before November 5, 2003 and scheduled a hearing on November 15, 2003.
3. As of the filing of this Motion, SouthEast Telephone has not provided to Kentucky ALLTEL or otherwise filed with the Commission responses to Kentucky ALLTEL's

discovery questions. Further, SouthEast Telephone has not filed any objections to Kentucky ALLTEL's discovery questions.

4. SouthEast Telephone's answers to interrogatories and responses to the requests for production of documents are critical to Kentucky ALLTEL's ability to adequately formulate its testimony in this proceeding. The requested information is directly relevant to key and significant issues in this arbitration. SouthEast Telephone is asking that Kentucky ALLTEL be required to provide, among other UNEs, unbundled switching. The Telecommunications Act of 1996 only requires Kentucky ALLTEL to provide such where "necessary" and when SouthEast Telephone would be "impaired" without such. Responses to ALLTEL's discovery are required in order to enable Kentucky ALLTEL to provide testimony which includes, among other matter, the following:

- A. Requested information with respect to SouthEast Telephone's self-provisioned switch, transport, revenues and means of serving customers is crucial to application of the "triggers" and in analyzing economic barriers, if any, as determined relevant by the FCC in the TRO. All of the requested information is directly relevant to analyzing impairment with respect to certain UNEs.
- B. Kentucky ALLTEL's discovery requests were written from and closely follow the discovery submitted by BellSouth Telecommunications, Inc. in the Commissions 9 month TRO proceeding that will examine impairment issues associated with unbundled switching and seeks, in many respects, the same information that the Commission has requested of local exchange carriers in the Commission's analysis of the FCC's Triennial Review Order. The requested information will be necessary for completion of obligations imposed upon the Public Service Commission pursuant to the TRO and is not unduly burdensome or unreasonable.

- C. The requested data is necessary to establish evidence of self-provisioning of local circuit switching and transport thereby negating any presumption of impairment.
5. While Kentucky ALLTEL has attempted to contact SouthEast Telephone in order to attempt to obtain and expedite these responses, such calls have not yet been returned. It is not known, therefore, if SouthEast Telephone intends to answer Kentucky ALLTEL's interrogatories or if it will do so in such time frame as will be available to Kentucky ALLTEL to prepare its testimony in this proceeding.
  6. If this motion is granted, SouthEast Telephone will have had ample time in which to prepare its discovery responses. In fact, as indicated, the information requested by Kentucky ALLTEL is substantially similar to that requested of SouthEast Telephone by BellSouth Telecommunications, Inc. on October 10, 2003 in Case No. 2003-00379, Review of Federal Communications Commission's Triennial Review Order Regarding Unbundling Requirements for Individual Network Elements. Thus, SouthEast Telephone has had since October 10, 2003 to review and begin compiling responses.
  7. Responses by SouthEast Telephone by October 31, 2003 should not be unduly burdensome, nor is such a deadline unreasonable.
  8. Timely and complete responses to the October 22, 2003 Interrogatories and Request for Production of Documents may preclude the subsequent necessity for issuance of subpoenas in this proceeding.
  9. As Kentucky ALLTEL cannot adequately prepare its testimony in this proceeding without SouthEast Telephone's provision of discovery responses and as SouthEast Telephone will have had sufficient time in which to prepare its responses, Kentucky ALLTEL requests that the Commission immediately issue an emergency order expediting

the discovery responses and compelling SouthEast Telephone to provide thorough and sufficient responses to Kentucky ALLTEL by October 31, 2003.

## **II. REQUEST FOR EXTENSION OF TIME TO FILE TESTIMONY**

10. As stated above in the Motion to Require Discovery Responses, the Commission's Order on October 27, 2003, requires parties to file testimony in this matter by November 5, 2003, 9 days after the date of the Order.
11. The parties' prefiled testimony is essential to the presentation and development of the issues in this matter.
12. Also, the Commission has required parties to file their last best offer of settlement on November 5, 2003.
13. Notwithstanding that SouthEast Telephone has not yet responded to discovery, even with granting of ALLTEL's Motion to Require Responses by October 31, ALLTEL will not have the responses sufficiently in advance of the testimony deadline to allow meaningful evaluation, this procedural schedule is unduly burdensome on the parties.
14. For these reasons, Kentucky ALLTEL requests that the Commission immediately issue an order extending the deadline for filing testimony until November 10, 2003.
15. ALLTEL does not presently anticipate requesting that the hearing currently set for November 13, 2003, be delayed
16. Kentucky ALLTEL reserves the right to plead further in this matter as may be necessary.

WHEREFORE, Kentucky ALLTEL moves that the Commission immediately issue an Order requiring discovery responses by SouthEast Telephone no later than close of business, October 31, 2003; that the Commission extend the deadline for filing testimony until November

10, 2003; and that the Commission grant all other relief to which Kentucky ALLTEL may be entitled.

Respectfully submitted,

**KENTUCKY ALLTEL, INC.**

By: Noelle M. Holladay

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was mailed on this the 29<sup>th</sup> day of October, 2003, to:

Jonathon N. Amlung, Esq.  
1000 Republic Building  
429 W. Muhammad Ali Blvd.  
Louisville, KY 40202

Amy Dougherty, Esq.  
Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40602

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